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### **REMARKS**

#### **DOUBLE PATENTING:**

Claims 1 to 2 and 6 to 12 were provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1 to 12 of copending application number 10/618,556. A Terminal Disclaimer is enclosed with this response. The instant application and application number 10/618,556 are owned by the same entity, Noveon IP Holdings Corp., as evidenced by the Patent Office assignment recordal records at Reel/Frame 014761 /0073 and Reel/Frame 014391/0121 respectively.

The Examiner is requested to withdraw the double patenting rejection as a result of the attached Terminal Disclaimer.

#### **SPECIFICATION:**

The specification was amended to include the cross reference to related application section showing that this application claims priority to a provisional application filed on July 23, 2002 as application number 60/397,919. The Examiner is requested to enter this amendment to the specification.

#### **35 U.S.C. 103 REJECTION:**

Claims 1 and 3 to 6 were rejected as obvious when considering Cinadr in view of Gebizlioglu. Claim 1 has been amended to use the more limiting "consist" language. The amended claims exclude using a PVC or CPVC comprising an additive of blocky chlorinated polyolefin as taught by Cinadr. The amended claims also exclude using an additive of blocky chlorinated polyolefin in the tubular core of Gebizlioglu.

Claims 2 and 7 to 13 were rejected as obvious when considering Cinadr in view of Gebizlioglu and Doi. Claim 2 has been amended to specify that the crosslinked polyethylene used in the present invention is made by grafting vinyltrimethoxysilane or vinyltriethoxysilane

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groups onto a polyethylene backbone and exposing to water. The basis of this amendment can be found on page 11, lines 5 to 10, of the specification as filed. The amendment to claim 2 distinguishes to cross-linked polyethylene of Doi, which was a copolymer made by reacting ethylene monomer with silane.

Claims 14 and 15 were rejected as obvious when considering Cinadr in view of Gebizlioglu and Doi and Bushi. Claims 14 and 15 depend from claim 13. The amendment to independent claim 13 should traverse this rejection.

The 35 U.S.C. 103 rejections have been traversed by the amendments to the claims.

#### **DISCUSSION OF REFERENCES:**

Cinadr, the primary reference, teaches a process to make the blocky chlorinated polyethylene used by applicant as one of the inner tubular core for applicants' pipe. Cinadr teaches a one layer pipe of PVC or CPVC using the blocky chlorinated polyethylene as an additive.

Gebizlioglu teaches a multi-layer pipe having an outer layer of low density polyethylene and an inner layer of PVDC. Gebizlioglu teaches that a polyethylene inner layer would be unacceptable, thus pointing away from the applicants' invention.

Doi et al. teaches a film or sheet for food packaging. Doi uses a special type of cross-linked polyethylene for one layer of his film. The amended claims exclude the type of cross-linked polyethylene made by Doi.

Bushi teaches a composite pipe having a metal layer between two plastic layers and teaches that polyethylene can not be used as the outer layer because it can not be cement welded.

The combined references do not suggest to one skilled in the art of making pipes for the purpose of transporting water that a multi-layer pipe as recited in applicants' amended claims could be made. A multi-layer pipe as recited in the amended claims, which is resistant to chlorine in potable water, is not suggested in the combined teachings of the references.

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Applicants submit that the amended claims are unobvious in view of the references cited, when the references are considered alone or in combination. The references do not teach the present invention and in fact would lead one skilled in the art away from the present invention.

Applicants believe the rejections have been traversed as to the amended claims and the Examiner is respectfully requested to reconsider and allow the amended claims.

Respectfully submitted,



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